



**CITY OF HAYWARD
AGENDAREPORT**

AGENDA DATE November 10, 1998
AGENDA ITEM 5
WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: **APPEAL OF TEXT CHANGE APPLICATION NO. 98-140-02 - JACK VAN VOAST (APPLICANT/APELLANT)** - Text Change request to amend the Zoning Ordinance to allow mobile homes for an employee/attendant's sleeping quarters in conjunction with a commercial kennel in the Industrial District.

This text change application was continued from the October 20, 1998, City Council meeting at the request of the applicant. The attached material is the same material previously distributed to the City Council and the applicant.

Prepared by:

A handwritten signature in cursive script, reading "Dyana Anderly".

Dyana Anderly, A.I.C.P.
Development Review Services Administrator

Recommended by:

A handwritten signature in cursive script, reading "Sylvia Ehrenthal".

Sylvia Ehrenthal
Director of Community and Economic Development

Approved by:

A handwritten signature in cursive script, reading "Jesus Armas".

Jesus Armas
City Manager

Exhibits:

City Council Report w/attachments, dated October 20, 1998
Draft Resolution(s)



CITY OF HAYWARD AGENDA REPORT

AGENDA DATE October 20, 1998
AGENDA ITEM 2
WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: **APPEAL OF TEXT CHANGE APPLICATION NO. 98-140-02 – JACK VAN VOAST (APPLICANT/APELLANT) -** Text Change request to amend the Zoning Ordinance to allow mobile homes for an employee/attendant's sleeping quarters in conjunction with a commercial kennel in the Industrial District.

RECOMMENDATION:

The Planning Commission failed to pass a motion to approve the Text Change. **Staff** recommends approval of the Negative Declaration and denial of the Text Change.

DISCUSSION:

The applicant, Jack Van Voast, is requesting an amendment to the Zoning Ordinance to allow mobile homes for an employee/attendants' sleeping quarters in conjunction with kennels in the Industrial District. Mr. Van Voast owns a kennel at 4125 Breakwater Avenue, approximately 800 feet west of Whitesell Street, which was approved in 1991 with a use permit. It is the only approved kennel operating in the City's Industrial District. Since 1991 the Animal Services Bureau has received various complaints about the kennel operation. Complaints involved reports of animal attacks on kennel customers and employees and, in a case where animals had escaped from the facility, attacks on the general public. Kennel patrons have also filed complaints regarding animal abuse, overcrowding, and neglect. Several cases involved animals that were either lost after escaping from the facility, destroyed while loose from the facility or involved in an attack while loose, impounded and later ordered destroyed by court order. Other cases involved complaints regarding injuries sustained by animals boarded at the facility, or animals not provided veterinary treatment for injuries received while boarding at the kennel,

The applicant installed the two used mobile homes on the kennel property over a year ago without City authorization. In September 1997, Community Preservation asked the applicant to remove the mobile homes from the property. Since that time staff has met with the applicant and suggested that he use conventional construction to create living quarters for a kennel attendant and that he modify his use permit for the expanded operation. The applicant has stated that the cost of conventional construction is prohibitive and has opted to seek an amendment to the Zoning Ordinance instead.

**Mayor and City Council
Meeting of October 20, 1998**

The Zoning Ordinance is exclusionary, that is, if a use is not listed as permitted in a particular zoning district it is then considered to be prohibited. Mobile homes are not listed in the Industrial District as permitted uses therefore they are prohibited. Mobile homes are permitted uses only in the Mobile Home Park District. The Industrial District permits "*Living quarters for security or switch board personnel employees*" when established in conjunction with various primary, administrative or conditional uses. Many security living quarters have been approved in the Industrial District, however all have been located within permitted primary industrial buildings (e.g., living quarters in conjunction with self storage facilities).

Beside the applicant (see applicant's appeal letter dated September 10, 1998), five other individuals spoke before the Planning Commission. All spoke in favor of the text change amendment. The speakers identified themselves as kennel employees, clients of the applicant, and as an employee's mother. The speakers supported the applicant's claim that his dog training methods require on-site resident staff to operate the kennel, that the dogs are in need of 24-hour care, that the mobile homes provide his staff an opportunity to reside on the premises, and that living on-site with the dogs gives employees a sense of responsibility.

A Commissioner moved to recommend approval of the text change since security personnel are presently permitted to reside in the Industrial District under current zoning regulations. The motion was seconded, however it failed to carry.

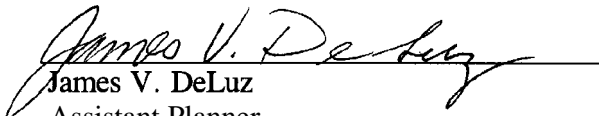
Staff maintains that allowing mobile homes in the Industrial District would not enhance the character of the city from two standpoints. First, the *Economic Development Element of the General Plan* recommends to "*Limit non-industrial uses in the Industrial Corridor which would interfere with the primary use of the area as industrial land use.*" Secondly, the *Element* also states: "*Promote and protect the appearance of the Industrial Area to encourage quality development.*" In keeping with these policies, living space in the Industrial District is currently limited to security or switchboard personnel in a space no greater than 1,200 square feet. The comprehensive amendments to the Zoning Ordinance currently under consideration proposes to further reduce the amount of living space for security personnel to no more than 640 square feet. Expanding residential opportunities to encompass larger areas devoted to living space would be inconsistent with these policies.

The applicant's property is part of a larger underdeveloped industrial area at an entry point to Hayward. This area was annexed from Alameda County and contains business involved with open storage. The area has the potential to be developed with more intensive and attractive industrial uses, such as an industrial/business park. In staffs opinion, the design of mobile homes is inconsistent with design features of attractive and more-typical industrial buildings and does not serve to protect the appearance of the industrial area.

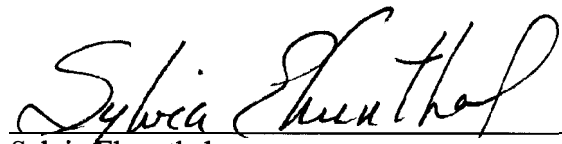
**Mayor and City Council
Meeting of October 20, 1998**

The applicant proposes a text change that would allow mobile homes as living quarters without further discretionary review. However, staff would urge that, if the text change is approved, the design and placement of mobile homes be considered as part of a use permit. If the text change is not approved, and where there is a need for 24-hour care of the animals, the kennel owner could either hire individuals to staff the kennel in shifts or construct suitable living quarters as part of the primary structure.

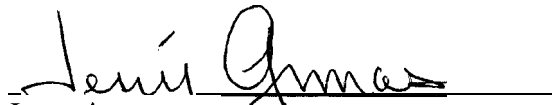
Prepared by:


James V. DeLuz
Assistant Planner

Recommended by:


Sylvia Ehrenthal
Director of Community and Economic Development

Approved by:


Jesus Armas
City Manager

Exhibits:

- A. Findings for Denial
- B. Letter of Appeal, dated September 10, 1998
- C. Planning Commission Meeting Minutes & Staff Report, including Negative Declaration, dated September 3, 1998
- D. Area Map
- E. Proposed Text Change
Draft Resolution(s)

10.1698

EXHIBIT A

FINDINGS FOR DENIAL TEXT CHANGE APPLICATION NO. 98-140-02

1. A Negative Declaration was prepared for the project in conformance with the California Environmental Quality Act (CEQA) guidelines;
2. Approval of the ordinance text change will impair the character and integrity of the Industrial District in that approval of a mobile home(s) for an employee residence in conjunction with a commercial kennel will permit mobile homes to be located amidst various industrial uses and industrial buildings within a district where existing provisions already permit industrial living quarters for security or switch board personnel;
3. That the ordinance text change will be detrimental to the public health, safety, or general welfare and will not promote public convenience in that the location of mobile homes in the Industrial District could potentially expose sensitive residential populations to concentrations of hazardous or classified materials commonly found in the Industrial District, that approval of the mobile home(s) in the Industrial District could cumulatively have a negative economic impact on existing and future industrial uses that either currently use or may require the use of hazardous or classified materials and that are potentially incompatible with residential activity;
4. That streets and public facilities are adequate to serve the current industrial uses of the property however approval of the proposed text change amendment may impact existing industrial uses in that cumulatively approval of numerous mobile homes may impact the Industrial District with residential activities where existing streets and public facilities are not designed to accommodate a combination of residential and industrial uses;
5. That the proposed text change is not in conformance with the purposes of the Industrial District zoning and with all applicable officially adopted policies and plans; and
6. That the proposed text change will not be compatible with present and future uses of the property, which other than the kennel are all industrial in nature, or with adjacent properties, and that no beneficial effect will be achieved by the approval of the applicant's request.

**K-9 K-9**

Thursday, September 10, 1998

Mr. James V. De Luz
City of Hayward

Re: Text Change #98- 140-02

Dear Jim;

We wish to appeal the negative desision made by the Planning Commution on September 3rd, 1998 regarding text change #98-140-02 from K-9 K-9.

Thank you for your help.

Your Truly,

Jack Van Voast

RECEIVED

SEP 10 1998

DEVELOPMENT REVIEW SERVICES

4125 Lot e Breakwater Ave.
Hayward, CA. 94545

Phone: 510-785-5959
Fax: 510-785-3939

DRAFT DRAFT DRAFT EXHIBIT C

Commissioner Halliday said she appreciated the information made available to the Commission following the previous meeting. She was particularly pleased to hear from members of the Santa Clara Task Force. She said she too had questions as to whether this is the right project for this location and appreciated Mr. Harmeyer's concerns. However, she recognized the quality of the work Sobrato does and with discussion, at this meeting of the Redevelopment Agency amendment, this project may be the catalyst for moving the area forward. She added that she would like to ask for a friendly amendment the motion to include a condition requiring residents to be informed about the noise problems in the area.

Commissioner Fish denied her request saying he saw no point for the addition of the condition,

Commissioner Halliday then asked that the developer let potential residents know of the noise problems without the condition. She added that after listening to everyone, she would reluctantly support the motion in the spirit of redevelopment in that area.

Chairperson Williams said he too would support the motion since it is zoned properly and meets the General Plan conditions. This is a developer-funded project and is not asking the City for any funds. It is something positive to relieve the tax burden on the people.

The motion passed unanimously.

3. **TEXT CHANGE APPLICATION NO. W-140-02 - JACK VAN VOAST (APPLICANT)** - Text change request to amend Section 10-1.401 c. (10) of the Industrial District to allow a mobile home(s) for an employee/attendant's sleeping quarters in conjunction with a commercial kennel.
(CONTINUED FROM JULY 30, 1998)

Assistant Planner DeLuz described the proposal and said that presently there are two mobile homes on the property which have been installed without permits. He said that mobile homes are inconsistent with present regulations and approval of the amendment may set a precedent. He added that staff is recommending approval to the City Council of the Negative Declaration and denial of the text change amendment.

Public Hearing Opened 8:56 p.m.

Jack Van Voast, 4125 Breakwater Avenue, applicant, cited a number of sources who indicated that dogs do better with a home environment when at a kennel. He showed a video tape of the area. He said his business needs someone with the dogs 24-hours a day for their health and well-being. He repeated that he is asking for a text change for kennels only and not in general. He indicated that he is not inclined to build on the site since he is not the owner of it. He is negotiating his present lease for a possible five-years and if he has to leave, he can take his home with him.

Nicole Row, 4125 Breakwater Avenue, said it is good for the dogs to have an open kennel situation. The dogs are healthy and quiet. Living on site has also given her a sense of responsibility.

Carolyn Hudson, 3305 Loreto Drive, said she is a physician associated with several hospitals

**MINUTES
SUBJECT TO APPROVAL
BY PLANNING COMMISSION**

**REGULAR MEETING OF THE PLANNING
CO-ON, CITY OF HAYWARD, Council
Chambers, Thursday, September 3, 1998,
7:30 p.m. 777 "B" Street, Hayward, CA 9454**

in Hayward who uses the kennel frequently. She said she considers this a day care for her dog since the animal gets personal treatment from the caretakers.

Roxanne Row, 4570 **Evelena** Court, Nicole's mother, said she is proud of her daughter for taking the responsibility of this job.

Rhonda **Tappan**, 3139 Caramello Court, Pleasanton, said she has been a client of Jack Van Voast's since 1985. This is the last kennel in Hayward and they need to provide 24-hour care to the animals. She said they also need two facilities on site since both men and women are living on the premises.

Jennifer Voight, 4257 Alder Avenue, Fremont, said she has worked at the kennel 4 or 5 years. She asked that the Commission support the proposal.

Public Hearing Closed **9:26** p.m.

Commissioner Caveglia said that if people are permitted to live in mobile homes in the town and also live in the Industrial District, why not allow them to live in mobile homes in the Industrial District, particularly with most of the mobile home parks next to the Industrial District. He then moved, seconded by Commissioner Halliday, that the City Council approve the text change application.

Commissioner Kirby said that he appreciated the appeal of the owner but this is a policy question. He would support a recommendation to pass this issue on to City Council and support staff recommendation to oppose the Text Change.

The motion failed by the following vote:

AYES:	COMMISSIONERS Caveglia, Halliday
NOES:	COMMISSIONERS Bennett, Bogue, Fish, Kirby CHAIRPERSON Williams
ABSENT:	None
ABSTAIN:	None

**4. RECOMMENDATION ON DOWNTOWN HAYWARD REDEVELOPMENT
PLAN AMENDMENT AND FINAL ENVIRONMENTAL IMPACT REPORT -**

The Redevelopment Plan Amendment proposes to add approximately 370 acres to the existing 240-acre downtown redevelopment area. The added acreage is located generally west of and contiguous to the existing redevelopment area. The added area is generally bounded by A Street, the Union Pacific railroad, the Hayward city limits (immediately south of Metro Street), Hathaway Avenue, Amador Street, Winton Avenue, and Jackson Street.

Redevelopment Director Bartlett asked that Commissioners recommend to the City Council



AGENDA REPORT
PLANNING COMMISSION ■ CITY OF HAYWARD

Item NO: 3 (continued)

MEETING OF
September 3, 1993

TO: Planning Commission

FROM: James V. De Luz, Assistant Planner

SUBJECT: **TEXT CHANGE APPLICATION NO. 98-140-02 - JACK VAN VOAST**
(APPLICANT) - Text change request to amend Section 10-1.401 c. (10) of the Industrial District to allow a mobile home(s) for an employee/attendant's sleeping quarters in conjunction with a commercial kennel.

RECOMMENDATION:

That the Planning Commission deny the application.

DISCUSSION

Background

The applicant, Jack Van Voast, owner of "K-9 K-9 Kennels," a dog boarding and training facility in the Industrial District, is requesting an amendment to the Industrial District regulations to allow mobile home(s) as an employee residence in conjunction with a commercial kennel. The kennel was approved (Use Permit 90-44) by the Board of Adjustments in 1991.' (See attached minutes and conditions of approval.) The Van Voast kennel is the only approved kennel operating in the City's Industrial District. Approval of the applicant's use permit includes facilities for both indoor and outdoor dog runs, exercise yards, an office and a kitchen within the building. It did not provide for employee sleeping quarters. The applicant states that it is necessary to provide full time kennel staff On the premises for security purposes, to administer medications, feeding, and to monitor and care for injured Or sick animals.

A commercial kennel is a permitted use in the Industrial District subject to the approval of an administrative use permit. "Living quarters for security or switchboard personnel employees" is also a permitted use in the Industrial District when established in conjunction with various primary, administrative, or conditional uses. Living quarters are not to exceed 1,200 square feet and are subject to building permit approval.

On September 24, 1997, the Development Services Inspection Division notified Community Preservation (zoning enforcement) that K-9 K-9 Kennels requested a propane connection to a mobile home. A follow-up inspection by Community Preservation revealed two mobile homes at the kennel site, one occupied by the kennel owner and the other by a kennel employee. The kennel owner and the property owner were advised by Community Preservation that both mobile homes were to be removed from the property and a date was established for their removal.

During a number of meetings with staff, the applicant disagreed with staff's interpretation of the Industrial District regulations, Section 10-1.401 c (10), which addresses security living quarters. Security living quarters are permitted in conjunction with a permitted industrial use and have been, historically, part of the primary structure permitted on the property. For example, security quarters have been approved in conjunction with mini-storage facilities as part of the primary structures. Staff has advised the applicant that he may apply to construct an employee's quarters provided conventional construction is used and the quarters are integrated with the primary structure. The applicant feels strongly that mobile homes should be allowed in conjunction with the operation of a commercial kennel in the Industrial District based on cost considerations. Currently mobile homes are permitted only within the Mobile Home Park District.

Staff met with the kennel operator, the kennel property manager, and the property owner on numerous occasions, at which they were advised to remove the mobile homes and restore the property to conform with the conditions of approval of their use permit. Staff offered to provide assistance to the property owner and kennel operator with respect to the building permit requirements for construction of living quarters for kennel security. The kennel was notified by Community Preservation to remove his employee's mobile residence by April 10, 1998, and to remove his personal mobile residence by May 8, 1998. The kennel operator submitted the subject text change amendment on April 10, 1998, in an attempt to retain the use of his mobile homes. Enforcement of the zoning investigation has been suspended while the amendment request is being processed.

Text Amendment Considerations

The Zoning Ordinance is *exclusionary*, that is, if a use is not listed as permitted, it is prohibited. For instance, single-family dwellings are listed as permitted uses in the Single-Family Residential District, but not in the Industrial District. Therefore, they are prohibited in the Industrial District. This is also true for mobile homes. They are listed as permitted uses in the Mobile Home Park District, but not in the Industrial District. The applicant takes exception to this interpretation of the zoning Ordinance, but has, nonetheless, made an application to include mobile homes in conjunction with kennels as a permitted use in the Industrial District.

When an amendment to the Zoning Ordinance is considered, the requested change must conform to all applicable, officially adopted policies. These policies include, but are not limited to, the General Policies Plan, the Economic Development Element of the General Plan, and conformance with the purposes of the Industrial District, which are discussed below.

General Policies Plan

The General Policies Plan states, "The land use policies and design regulations of the City will be used to shape development in ways consistent with the desired city character." The General Policies Plan also states, "Enhance entrances to Hayward with distinctive planting, signing or architecture." The Planning Commission is being asked to find that using mobile homes for living quarters in the Industrial District would be consistent with desired city character. In staff's opinion, mobile homes in the Industrial District would not enhance the character of the city in that they are inconsistent with attractive industrial uses, design, and character. Staff

considers using mobile homes for residential purposes in the Industrial District to be inconsistent with industrial land use policies. If the amendment is approved, the Planning Commission (under separate application to modify the use permit) would be asked to consider if the use of two mobile homes for living quarters would enhance the entrance to Hayward with distinctive architecture since Mr. Van Voast's property is at an entry point.

Economic Development Element of the General Plan

The property is designated Industrial Corridor on the General Policies Plan Map. The following applicable policies and strategy in the General Plan under Economic Development Policy V, are applicable:

The City will seek to maintain the efficiency of the Industrial Corridor through road and transit improvements and encouragement of appropriate land use.
[underline added]

Create a sound local economy which attracts investment, increases the tax base, creates employment opportunities for residents and generates public revenues.

Improve city image and business climate.

These policies are further strengthened by the following Strategies:

Limit non-industrial uses in the Industrial Corridor which would interfere with the primary use of the area as industrial land use

Revitalize declining commercial and industrial areas and obsolete facilities through rezoning, redevelopment, rehabilitation and other available means.

Hayward remains a very attractive location for manufacturers and distribution outlets, where proximity to the entire Bay Area is important. Amending the Industrial District regulations to permit mobile homes in the district is a departure from the intent of the City's Economic Development strategies. Using industrial land for industrial buildings that provide jobs, strengthen the tax base, and attract other businesses should be encouraged.

Zoning Ordinance

The purpose of the Industrial District as stated in Section 10-1.400 is:

*To provide for and to encourage the development **of** industrial uses where suitable, and to promote a desirable and attractive working environment with minimal detriment to surrounding properties.*

In staff's opinion, mobile homes are inconsistent with the purpose of the Industrial District in that they would not promote a desirable and attractive working environment. The design of these structures is not consistent with attractive industrial character.

The Zoning Ordinance also requires all uses to be conducted wholly within enclosed *buildings*, and mobile homes are not classified as buildings in that they are not on permanent foundations. This provision of the Zoning Ordinance has been applied throughout the City. It should be pointed out that modular structures have been permitted *only infrequently* as temporary uses while the primary structures are under construction. For example, Kaiser Permanente used modular structures (affixed to a permanent foundation) while their permanent pharmacy was being constructed. Also permitted are "construction trailers," again, a temporary situation. Staff would be concerned that to allow mobile homes as *living quarters other than in the* Mobile Home Park District could be setting a precedent for their use elsewhere.

The living quarters that have been approved in Hayward tend to take on the character of the primary structures. For example, the mini-storage facility OR Industrial Parkway West abutting Stratford Village contains security quarters that are designed as an integral part of the primary structure. Mobile homes that look like residences without the typical amenities associated with them, in staff's opinion, do not contribute positively to the Industrial District.

The Zoning Ordinance requires approval of an administrative use permit for a kennel in the Industrial District, and review of sleeping quarters would be a part of that review. Consideration would be given to compatibility with surrounding industrial uses, the purpose of the Industrial District, and consistency with the long-range goals and policies of the City.

The Fire Department points out that there are greater concentrations of hazardous materials in the Industrial District and that the likelihood of exposing residential populations to hazardous materials is greater in the Industrial District than in other areas of the City. Therefore, residential populations in the Industrial District would be at greater risk than in other areas of the City. In fact, the applicant's kennel is approximately one-fourth mile from Rohm and Haas, a Hayward company that handles hazardous materials extensively. However, staff also recognizes the advantages of having an on-site attendant to tend to animals on a 24-hour basis.

If the Planning Commission is inclined to recommend approval of the application, staff recommends no more than one mobile home, limiting the size of mobile homes to accommodate no more than one person, and requiring that the design of the unit, to the extent possible, complement the design of the primary structure of the property. Should the text change amendment be approved, the applicant would be required to seek modification of the use permit for the kennel.

Public Comment

Staff has solicited public comment from property owners and tenants within 300 feet of the property, and from the Chamber of Commerce Industrial Committee. At the time this report was prepared staff had not received any comments regarding this proposed text change amendment other than from Fire Prevention and Hazardous Materials. Both are opposed to permitting mobile homes in the Industrial District.

Public Hearing Notice

On July 9, 1998, a notice of public hearing was published in the Daily Review and on July 6, 1993, notice was mailed to every property owner within 300 feet of the applicant's property as noted on the latest assessor's records as well as to all neighborhood task forces and homeowners associations that abut industrially zoned properties. At the July 30 meeting, the hearing was set at a specific date, requiring no further notice-

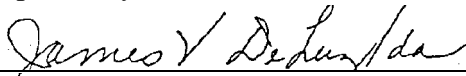
Environmental Review

In accordance with the California Environmental Quality Act Guidelines, a Negative Declaration was posted in the City Clerk's office and the libraries. A notice of availability for review and notice of this hearing was sent to all property owners within 300 feet of the perimeter of the property and to all neighborhood task forces and homeowners associations that abut industrially zoned properties.

Conclusion


In staffs opinion, the proposed text amendment is inconsistent with adopted city policies and could set a precedent with respect to the use of mobile homes for living quarters outside the Mobile Home Park District. If the Planning Commission recommends approval of the application, the matter will be forwarded to City Council for their consideration. If the Planning Commission denies the application, the action is final unless appealed to City Council.

Prepared by:



James V. De Luz
Assistant Planner

Recommended by:



Dyana Anderly, AICP
Development Review Services Administrator

Attached Exhibits:

- A - Findings for Denial
- B - Negative Declaration/Initial Study
- C - Minutes of Board of Adjustments, 1/23/91
- D - Conditions of Approval, Use Permit 90-44

K:\Project Files 98\Text Change 98\VAN VOAST\Van Voast Text Change - DA.doc

FINDINGS FOX DENIAL
TEXT CHANGE APPLICATION NO. 98-140-02

1. A Negative Declaration was prepared for the project in conformance with the California Environmental Quality Act (CEQA) guidelines;
2. Approval of the ordinance text change will impair the character and integrity of the Industrial District in that approval of a mobile home(s) for an employee residence in conjunction with a commercial kennel will permit mobile homes to be located amidst various industrial uses and industrial buildings within a district where existing provisions already permit industrial living quarters for security or switch board personnel;
3. That the ordinance text change will be detrimental to the public health, safety, or general welfare and will not promote public convenience in that the location of mobile homes in the Industrial District could potentially expose sensitive residential populations to concentrations of hazardous or classified materials commonly found in the Industrial District, that approval of the mobile home(s) in the Industrial District could cumulatively have a negative economic impact on existing and future industrial uses that either currently use or may require the use of hazardous or classified materials and that are potentially incompatible with residential activity;
4. That streets and public facilities are adequate to serve the current industrial uses of the property however approval of the proposed text change amendment may impact existing industrial uses in that cumulatively approval of numerous mobile homes may impact the Industrial District with residential activities where existing streets and public facilities are not designed to accommodate a combination of residential and industrial uses;
5. That the proposed text change is not in conformance with the purposes of the Industrial District zoning and with all applicable officially adopted policies and plans; and
6. That the proposed text change will not be compatible with present and future uses of the property which other than the kennel are all industrial in nature or with adjacent properties and that no beneficial effect will be achieved by the approval of the applicant's request.



CITY OF HAYWARD
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
DEVELOPMENT REVIEW SERVICES DIVISION
25151 CLAWITER ROAD
HAYWARD, CALIFORNIA 945452759
TELEPHONE NO.: (510) 293-****
FAX NO.: (510) 2934108

NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that no significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. PROJECT DESCRIPTION:

Text change request to amend Section 10-1.401 c (10) of the Industrial District to allow a mobile home(s) for an employee/attendant's sleeping quarters in conjunction with a commercial kennel.

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

That the proposed text change amendment as conditioned, will have no substantial effect on the area's resources, cumulative or otherwise.

III. FINDINGS SUPPORTING DECLARATION:

Approval of the text change amendment is subject to review and comment by the Planning Commission and approval by the City Council. The text change involves amendment of: the Zoning Ordinance, and if amended, would resolve the issue of the applicant's use of mobile home(s) in the Industrial District for an employee/caretaker's residence in conjunction with a commercial kennel. Commercial kennels in the Industrial District are subject to administrative use permit approval and therefore if the text change amendment is adopted by City Council, staff recommends that approval should be incorporated into the existing administrative use permit process. Administrative use permit approval will require review of the proposed mobile home location, compatibility with adjacent industrial uses, and allow conditions of approval to be adopted such as the size of the mobile unit and time limits for its use.

IV. PERSON WHO PREPARED INITIAL STUDY:

James V. DeLuz
Name/Title
7/7/98
Date

V. COPY OF INITIAL STUDY IS ATTACHED

For additional information, please contact the City of Hayward, 25151 Clawiter Road, Hayward, California 94545-2759 or telephone the City Clerk at (510) 293-5306.

Distribution

Provide copies to all organizations and individuals requesting same in writing.

Send to project applicants.

Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or publish once in Daily Review (20 days prior to hearing if no other public notice, otherwise 10 days; reference in all Notices of Decision distributed 20 days prior to effective date Of decision).

Posting

This Notice is to be posted for a period of at least 20 days upon receipt:

1. At the City Clerk's Office
2. On the Main City Hall Bulletin Board
3. In the City Library branches.

K:\WP_DOCS\CEQA\FORM\BLANK-ND.NEG

INITIAL STUDY CHECKLIST FORM

Project title: Text Change Application No. 98-140-02 Jack Van Voast (Applicant)

Lead agency name and address: City of Hayward, 777 "B" Street, Hayward, CA 94541

Contact persons and phone number: James V. De Luz, Assistant Planner (510) 583-4212

Project location: 4125 Breakwater Avenue northerly side, approximately 800 feet westerly of Whitesell Street

Project sponsor's name and address:

Jack Van Voast, K-9 K-9 Kennel, 4125 Breakwater Avenue, Hayward CA 94545

General plan designation Industrial Corridor Zoning: Industrial
District _____

Description of project: Text Change Application No. 98-140-02 - Jack Van Voast (Applicant) -
Text change request to amend Section 1 O-I.401c.(10) of the Industrial District to allow a mobile home(s)
for an employee/attendant's sleeping quarters in conjunction with a commercial kennel.

Surrounding land uses and setting:
Industrial uses and industrial setting.

Other public agencies whose approval is required None.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Land Use and Planning | <input type="checkbox"/> Transportation/Circulation | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Population and Housing | <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Utilities and Service Systems |
| <input type="checkbox"/> Geological Problems | <input type="checkbox"/> Energy and Mineral Resources | <input type="checkbox"/> Aesthetics |
| <input type="checkbox"/> Water | <input type="checkbox"/> Hazards | <input type="checkbox"/> Cultural Resources |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Noise | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Mandatory Findings
Of Significance | | |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- ☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets, if the effect is a "potentially significant impact" or "potentially significant unless mitigated." An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, there WILL NOT be a significant effect in this case because all potentially significant effects (a) have been analyzed adequately in an earlier EIR pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR, including revisions or mitigation measures that are imposed upon the proposed project.

James V. De Luz
Signature

JAMES V. De Luz
Printed name

7/7/98
Date

For

ENVIRONMENTAL IMPACTS:

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
I. LAND USE AND PLANNING. Would the proposal:				
a) Conflict with general plan designation or zoning?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Approval of the applicant's request to use a mobile home(s) for an employees/attendant's sleeping quarters in conjunction with a commercial kennel in the Industrial District will require a text change amendment to the Industrial District zoning regulations.</i>				
b) Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>The Fire Prevention Bureau and Hazardous Materials Division have adopted various risk management plans for industrial uses in the Industrial District that may conflict with approval of the use of mobile homes for permanent residences in the Industrial District unless use of mobile homes are limited to employee/attendant's residence.</i>				
c) Be incompatible with existing land use in the vicinity?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Existing industrial uses in the vicinity of the kennel have approval for the handling and storage of hazardous materials. These materials may be incompatible with the use of mobile homes in the industrial district for an employee/attendant's sleeping quarters unless occupancy is limited to an attendant only when in conjunction with a commercial kennel.</i>				
d) Affect agricultural resources or operations (e.g., impacts to soils or farmlands, or impacts from incompatible land uses)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Disrupt or divide the physical arrangement of an established community (including a low-income or minority community)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
II. POPULATION AND HOUSING. Would the proposal:				
a) Cumulatively exceed official regional or local population projections?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Induce substantial growth in an area either directly or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

c) Displace existing housing, especially affordable housing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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III. GEOLOGIC PROBLEMS. *Would the proposal result in or expose people to potential impacts involving:*

a) Fault rupture?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Seismic ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Seiche, tsunami, or volcanic hazard?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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e) Landslides or mudflows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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f) Erosion, changes in topography or unstable soil conditions from excavation, grading, or fill?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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g) Subsidence of land?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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h) Expansive soils?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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i) Unique geologic or physical features?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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IV. WATER. *Would the proposal result in:*

a) Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Exposure of people or property to water related hazards such as flooding?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Discharge into surface waters or other alteration of surface water quality (e.g., temperature, dissolved oxygen or turbidity)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Changes in the amount of surface water in any water body?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Changes in currents, or the course or direction of water movements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations or through substantial loss of groundwater recharge capability?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Altered direction or rate of flow of groundwater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Impacts to groundwater quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Substantial reduction in the amount of groundwater otherwise available for public water supplies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

V. **AIR QUALITY.** *Would the proposal:*

a) Violate any air quality standard or contribute to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Expose sensitive receptors to pollutants?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

It is possible industrial area employees and residents could be exposed to potential health hazards because the concentration of hazardous materials in the Industrial District is much greater than anywhere else in the City. However, existing industrial area emergency plans administered by the Fire Prevention Bureau should lessen the public's potential to exposure to industrial health hazards.

c) Alter air movement, moisture, or temperature, or cause any change in climate?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Create objectionable odors?

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VI. TRANSPORTATION/CIRCULATION. *Would the proposal result in:*

a) Increased vehicle trips or traffic congestion?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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No impact anticipated.

b) Hazards to safety from design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Inadequate emergency access or access to nearby uses?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Insufficient parking capacity on site or offsite?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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e) Hazards or barriers for pedestrians or bicyclists?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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f) Conflicts with adopted policies supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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g) Rail, waterborne or air traffic impacts?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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VII. BIOLOGICAL RESOURCES. *Would the proposal result in impacts to*

a) Endangered, threatened or rare species or their habitats (including but not limited to plants, fish, insects, animals, and birds)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Locally designated species (e.g., heritage trees)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Locally designated natural communities (e.g., oak forest, coastal habitat, etc.)?

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

d) Wetland habitat (e.g., marsh, riparian, and vernal pool)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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e) Wildlife dispersal or migration corridors?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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VIII. ENERGY AND MINERAL RESOURCES. *Would the proposal:*

a) Conflict with adopted energy conservation plans?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Use nonrenewable resources in a wasteful and inefficient manner?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the State?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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IX. HAZARDS. *Would the proposal involve:*

a) A risk of accidental explosion or release of hazardous substances (including, but not limited to, oil, pesticides, chemicals or radiation)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Possible interference with an emergency response plan or emergency evacuation plan?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Occupancy of mobile homes in conjunction with commercial kennels should be limited to an employee/attendant only to reduce the possibility of any potential interference with any emergency response plan(s) adopted for nearby industrial manufacturers.

c) The creation of any health hazard or potential health hazard?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Not anticipated.

d) Exposure of people to existing sources of potential health hazards?

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

See V. Air Quality (b)

e) Increased fire hazard in areas with flammable brush, grass, or trees?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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X. NOISE. *Would the proposal result in:*

a) Increases in existing noise levels?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Exposure of people to severe noise levels?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Possibly, if a particular industrial use tends to generate high levels of noise as part of their industrial operation it may expose mobile home residents to severe noise levels.

XI. PUBLIC SERVICES. *Would the proposal have an effect upon, or result in a need for new or altered government services in any of the following areas:*

a) Fire protection?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Police protection?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Schools?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Maintenance of public facilities, including roads?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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e) Other government services?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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XII. UTILITIES AND SERVICE SYSTEMS. *Would the proposal result in a need for new systems or supplies, or substantial alterations to the following utilities?*

a) Power or natural gas?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Communications systems?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Local or regional water treatment or distribution facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Sewer or septic tanks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Storm water drainage?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Solid waste disposal?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Local or regional water supplies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIII. AESTHETICS. *Would the proposal?*

a) Affect a scenic vista or scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a demonstrable negative aesthetic effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Create light or glare?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIV. CULTURAL RESOURCES. *Would the proposal:*

a) Disturb paleontological resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Disturb archaeological resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have the potential to cause a physical change which would affect unique cultural values?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Restrict existing religious or sacred uses within the potential impact area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
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XV. RECREATION. *Would the proposal:*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Increase the demand for neighborhood or regional parks or other recreational facilities? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Affect existing recreational opportunities? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

XVI. MANDATORY FINDINGS OF SIGNIFICANCE.

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California History or prehistory? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Does the project have the potential to achieve short-term, to the disadvantage of long-term, Environmental goals? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Does the project have impacts that individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the Effects of probable future projects) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Does the project have environmental effects which will cause substantial adverse effects on human Beings, either directly or indirectly? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

XVII. EARLIER ANALYSES.

- a) Earlier analyses used..
- b) Impacts adequately addressed..
- c) Mitigation measures.
- If the proposed text change amendment to permit mobile homes in the Industrial District is approved, approval should be categorized as either an administrative or conditional use subject to approval of an administrative or conditional use permit. Processing of a use permit will require review and comment by the appropriate review body within the City to determine if the use and location is compatible with existing industrial uses in the vicinity of the project site.

Boardmember Dowling concurred with the improvements suggested. His concurrence was based upon the application being to improve an existing house. Boardmember Dowling noted an additional condition should be that trash on the property be removed.

Boardmember Riley noted while the improvements are minimal she concurred with her colleagues and supported the application.

Boardmember Minhas and Chairperson Crain concurred with their colleagues.

IT WAS MOVED BY BOARDMEMBER DOWLING, SECONDED BY BOARDMEMBER RILEY THAT SITE PLAN REVIEW AND VARIANCE APPLICATION NO. 89-22 BE APPROVED WITH ALL CONDITIONS RECOMMENDED BY THE PLANNING DEPARTMENT AND INCLUDING THE FOLLOWING ADDED CONDITIONS:

1. THE DEPTH OF BUILDING ADDITION SHALL BE DECREASED BY ONE FOOT IN ORDER TO INCREASE THE LANDSCAPING PLANTER ALONG THE DRIVEWAY TO A MINIMUM OF 4 FEET.
2. EXISTING TRASH ON THE PROPERTY SHALL BE CLEANED UP AND THE PROPERTY SHALL BE KEPT CLEAN.
3. THE APPLICANT SHALL IMPROVE THE TRIM ON THE WINDOWS, SHALL ADD WINDOW BOXES AND/OR OTHER ARCHITECTURAL AMENITIES, PAINT THE TRIM OF EXISTING WINDOWS TO MATCH NEW WINDOWS, WITH THE DESIGNS TO BE APPROVED BY THE PLANNING DEPARTMENT.

The motion CARRIED by the following roll call vote:

AYES: Devane, Dowling, Crain, Riley, Minhas
 NOES: None
 ABSENT: Gillis, Spence

Chairperson Crain called a brief recess at 9:22 P.M.
 The meeting reconvened at 9:30 P.M.

3. USE PERMIT APPLICATION NO. 90-44 - JACK VAN VOAST (Applicant) - JAMES DALTON (Owner) - Request to operate a dog training, boarding, and breeding facility.

Property is located at 4125 Breakwater Avenue, immediately north of Johnson Road (private street) in an I (Industrial) District.

Senior Planner McClellan presented the Planning Department report dated January 23, 1991, which was filed, and recommended approval subject to findings and conditions contained therein.

Public Hearing Opened 9:40 P.M.

Jack Van Voast, 4125 Breakwater Avenue, Hayward, applicant, did not agree with condition #10 requiring closure of the 50-foot opening on the north side of the building and keeping the dogs inside during the hours of darkness. He further objected to the 3-year period of the Use Permit because he has a 10-year lease.

Boardmember Minhas queried the reason for the 3-year limit. Senior Planner McClellan noted that any items that need to be reviewed can be, at the time the use permit expires, and conditions can be revised. However, he suggested that condition #12 would suffice in this instance.

Boardmember Dowling asked if there had been any concerns expressed in the neighborhood regarding the noise and Senior Planner McClellan replied, none.

Public Hearing Closed at 9:47 P.M.

Boardmember Dowling supported the application and conditions, except for condition #10. He had not been shown why the opening needed to be closed, nor why the dogs should be kept in after dark and recommended removing condition #10. However, Boardmember Dowling was in favor of the 3-year Use Permit period remaining.

Boardmember Devane did not agree with recalling the Permit in three years. However, revising condition #12 to read that violation of any of the conditions would be cause revocation of the Permit (through public hearing before a duly authorized review body), or if there are any complaints, that the application be brought back before the Board.

Boardmember Riley concurred with Boardmember Devane that the period should run longer than 3 years.

Boardmember Minhas favored the application with the removal of conditions #10 and #13 and revising condition #12.

Chairperson Crain concurred with removing condition #13 and revision of condition #12. However she recommended revising #10 to delete the portion that prohibits dogs from being out during the hours of darkness. She concurred with requiring a closure on the north side of the building for the protection of the dogs.

IT WAS MOVED BY BOARDMEMBER DEVANE, SECONDED BY BOARDMEMBER RILEY THAT USE PERMIT APPLICATION NO. 90-44 BE APPROVED INCLUDING THE CONDITIONS PREPARED BY THE PLANNING DEPARTMENT WITH THE FOLLOWING REVISIONS:

1. CONDITIONS #10 and #13 BE DELETED.
2. AMEND CONDITION #12 TO READ AS FOLLOWS..."VIOLATION OF ANY OF THESE CONDITIONS IS CAUSE FOR REVOCATION OF PERMIT AFTER PUBLIC HEARING BEFORE A DULY AUTHORIZED REVIEW BODY. IF THERE ARE ANY COMPLAINTS REGARDING THIS OPERATION, THEN THE USE PERMIT SHALL BE BROUGHT BACK BEFORE THE BOARD OF ADJUSTMENTS FOR RECONSIDERATION."

The motion CARRIED by the following roll call vote:

AYES: Devane, Dowling, Riley, Minhas
NOES: Crain
ABSENT: Gillis, Spence

4. ~~SITE PLAN REVIEW AND VARIANCE APPLICATION NO. 90-50 BUNTON, CLIFFORD & ASSOCIATES (Applicant), TENNYSON ASSOCIATES (Owner) - Request to remodel an existing shopping complex requiring variances to reduce the required landscaped setback~~

F I N D I N G S

1. The proposed use is desirable for the public convenience of welfare in that there is a need for the training/boarding facility;
2. As conditioned, the proposed Use will not impair the character and integrity of the zoning district and surrounding area nor will the **proposed** use be detrimental to the public health, safety, or general welfare; and
3. The proposed use is consistent with applicable City policies and the intent and Purpose of the Industrial (I) District involved.

CONDITIONS OF APPROVAL

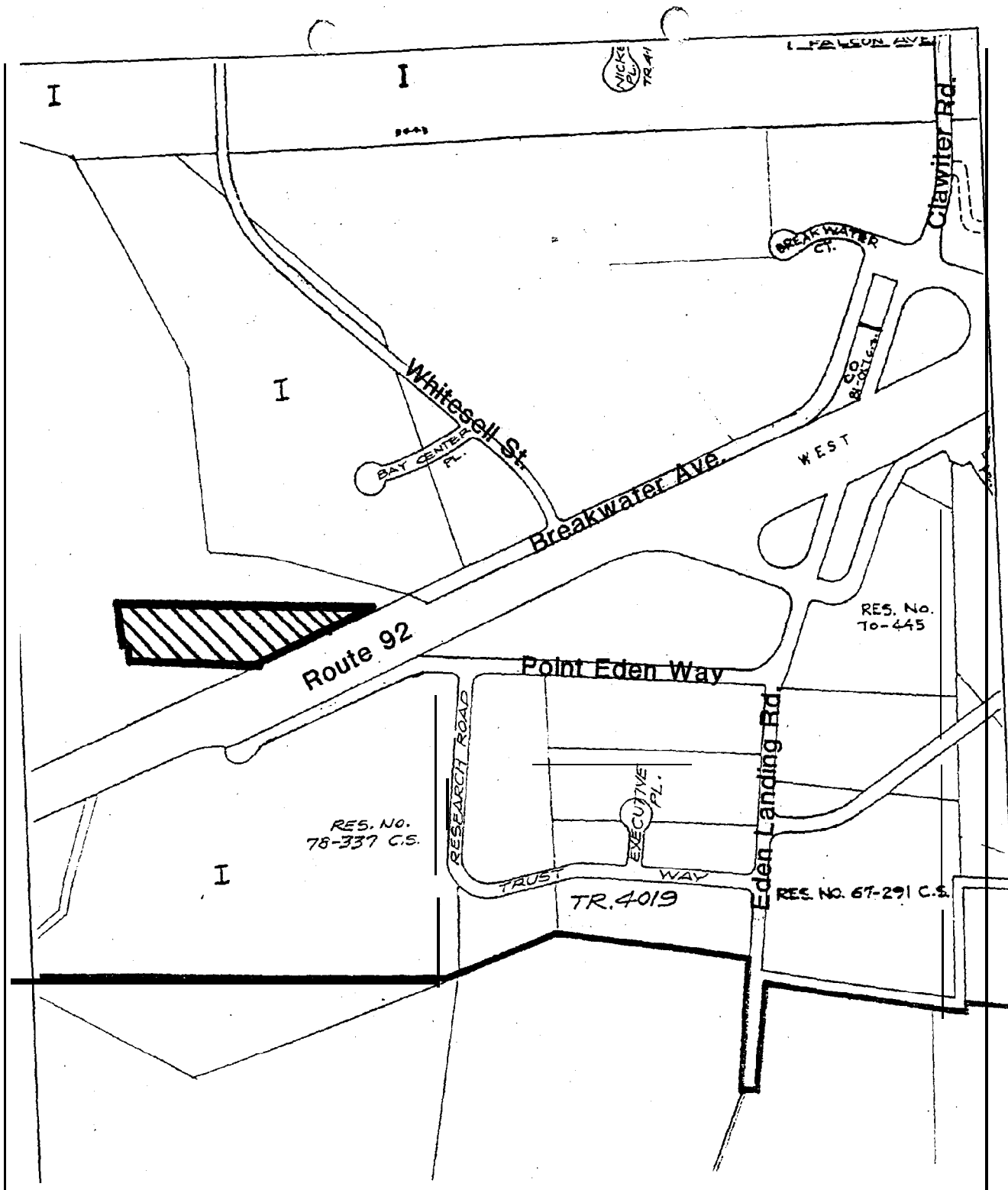
USE PERMIT 90-44

(Revised January 31, 1991)

1. The following shall be completed subject to approval of the Planning Director no **later** than April 30 1991.
 - a. Revise parking layout as **shown** on Exhibit "A". Move fence to allow for a **26-foot** backup area and **90-degree** parking to provide one handicapped and **four** standard parking Stalls.
 - b. Correct site plan to **show** shed located on west side of parking.
 - c. Submit 'a drainage **plan showing** ground elevations of training field and **exercise yards** to prove adequate drainage flow (minimum one percent slope) to existing drain. Install all drainage improvements.
 - d. Pave new parking lot area and provide adequate drainage (minimum one percent slope).
 - e. Obtain approval Of the surfacing material and drainage plan for indoor area from Alameda Department Of Environmental Care Services Vector Control and have improvements installed prior to boarding dogs.
 - f. Provide one fire extinguisher type 2A:10BC as required by Fire Department. .
2. Building must comply with all requirements of the Uniform Building Code including but not limited to State Title 24, Handicap Requirements.

3. Comply with all requirements of the Hayward Building Code including Chapter 41 Building Security Standards of the City of Hayward Building Code, Sections 4105, 4106, and 4107, by April 30, 1991.
4. The kennel runs must be cleaned (washed) daily. When water is used, the wash water shall be disposed of in the following manner: The floors shall be sloped and curbed to drain to the sanitary sewer system. Runs and exercise areas shall be disinfected three times weekly.
5. All food shall be kept in rodent and fly-proof containers or rooms. All perishable food shall be kept in refrigerators; . .
6. All putrescible waste (garbage) shall be stored in fly and rodent-proof containers. The contents of the containers shall be disposed of at an approved dump-site at least once every seven days (twice a week is preferred).
7. The premises shall be kept free of refuse so as to prevent the harboring of vermin, wild animals, and birds.
8. The use of sand or gravel in the run area for conditioning of show dogs is permitted, provided the material is replaced on a monthly basis and that animal wastes are picked up daily.
9. Comply with all city of Hayward Animal' control requirements such as, total number of dogs allowed on site at one time, Cleanliness, size of kennels, treatment of animals in humane fashion, vaccine information and licenses for all animals kept on Site, periodic inspections required.
10. No sign shall be erected on property without first obtaining a sign permit from the Planning Department.
11. Violation of any of these conditions is cause for revocation of permit after public hearing before a duly authorized review body. If there are any complaints regarding this operation, then the Use Permit shall be brought back before the Board of Adjustments for reconsideration.

030C



AREA MAP ■ TC 98-140-02
 Jack Van Voast/K9 K9 (Appl.)
 James Dalton/Breakwater Properties (Owner)
 4125 Breakwater Ave., Suite E

PROPOSED TEXT CHANGE
TEXT CHANGE APPLICATION 98-140-02
JACK VAN VOAST (APPLICANT)

INDUSTRIAL DISTRICT

SEC. 10- 1.40 1 USES PERMITTED.

b. Secondary Uses

- (1) Accessory buildings and uses
- (2) Living quarters for security or switchboard personnel employees not to exceed 1200 square feet
- (3) *Mobile homes for owner/caretaker residences in conjunction with a kennel*

DRAFT JB 10/5/98

HAYWARD CITY COUNCIL

RESOLUTION NO.

Introduced by Council Member _____

RESOLUTION DENYING TEXT CHANGE APPLICATION
NO. 98-140-02 OF JACK VAN VOAST

WHEREAS, Text Change Application No. 98-140-02 of Jack Van Voast concerns a request to amend the Zoning Ordinance to allow mobile homes for an employee/attendant's sleeping quarters in conjunction with a commercial kennel in the Industrial District; and

WHEREAS, the Planning Commission considered the request at its meeting on September 3, 1998, and recommended (5:2) to deny the application, the record of which action is on file in the office of the City Clerk; and

WHEREAS, applicant submitted a request to appeal this matter to the City Council on September 10, 1998; and

WHEREAS, a negative declaration has been prepared and processed in accordance with the City and state CEQA Guidelines.

NOW THEREFORE BE IT RESOLVED, that the City Council hereby finds and determines that:

- (1) The Negative Declaration prepared for this project is complete and final in accordance with the California Environmental Quality Act and reflects the independent judgment of the City Council;
- (2) Approval of the ordinance text change will impair the character and integrity of the Industrial District in that approval of a mobile home(s) for an employee residence in conjunction with a commercial kennel will permit mobile homes to be located amidst various industrial uses and industrial buildings within a district where mobile homes are not a permitted use; and
- (3) That the ordinance text change will be detrimental to the public health, safety, or general welfare and will not promote public convenience in that the location of mobile homes in the Industrial District could potentially expose sensitive residential populations to concentrations of hazardous or classified materials commonly found in the Industrial District, that approval of the mobile home(s) in the Industrial District could have a cumulative negative economic impact on

existing and future Industrial uses that either currently use or may require the use of hazardous or classified materials and that are potentially incompatible with residential activity; and

- (4) That streets and public facilities would not be adequate to serve the proposed use because they are not designed to accommodate a combination of residential and industrial uses; and
- (5) That the proposed text change is not in conformance with the purposes of the Industrial District zoning and with all applicable officially adopted policies and plans because such policies do not contemplate residential uses within the Industrial District; and
- (6) That the proposed text change will not be compatible with present and future uses of the property, which other than the kennel are all industrial in nature, or with adjacent properties, and that no beneficial effect will be achieved by the approval of the applicant's request.

BE IT FURTHER RESOLVED, that based on the aforementioned findings
Text change Application No. 98-140-02 is hereby denied

IN COUNCIL, HAYWARD, CALIFORNIA _____, 1998

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES :

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward